

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to the authority set forth in § 2 of the District of Columbia Public Hall Regulation Amendment Act of 1992, effective September 29, 1992 (D.C. Law 9-160; D.C. Official Code § 47-2820) (2001) ("The Act"), and Mayor's Order 92-130, dated October 22, 1992, hereby gives notice of the adoption, on an emergency basis, of a revision to Chapter 16 of Title 19 of the District of Columbia Municipal Regulations (DCMR), "Public Halls." The revised chapter will provide a forum for public hearings for licensing of public halls in the District of Columbia that is consistent with the office of Administrative Hearings Establishment Act of 2001, as amended, effective November 3, 2003 (D.C. Law 14-76; D.C. Official Code § 2-1831 *et seq.* (2004 Supp.))

The emergency action is necessary because DCRA must take immediate corrective action to amend the Public Halls regulations in order to afford residents of the District of Columbia, and owners of residential property situated in the District, the opportunity for a hearing in which to object to placement of a public hall within 600 feet of the boundary of residential property. A public hearing is required as a condition to approval or rejection of an initial license application, as well as to the continuation of an expired or expiring license. The government and the public presently are without an authorized forum in which to satisfy the hearing requirement. Adopting this rulemaking on an emergency basis is necessary in order to provide an immediate forum wherein members of the public may express public hall placement-related concerns and objections. Under the existing conditions, persons holding expiring licenses are provided an extension of the license automatically without addressing, in the required forum, the risks or potential risks to the peace, health, safety, and welfare of District residents and residential property owners. This emergency rulemaking was adopted on August 4, 2005 and will expire 120 days after the date of adoption or upon publication of final rulemaking in the D.C. Register, whichever occurs first.

19 DCMR Chapter 16 Public Halls is amended as follows:

Secs.

- 1601 Purpose
- 1602 Public Hall Licenses
- 1603 Application for Licensure
- 1604 Denial, Suspension, or Revocation of License
- 1605 Public Notice by the Director
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- 1609 Hearings
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- 1601 PURPOSE
- 1601.1 This chapter establishes the licensing procedures for public halls under the authority of paragraph 20 of section 7 of the General License Law, D.C. Code § 47-2820 (1997 Repl. and 1999 Supp.).
- 1602 PUBLIC HALL LICENSES
- 1602.1 No person shall operate a public hall without obtaining a license from the Director of the Department of Consumer and Regulatory Affairs ("Director").
- 1603 APPLICATION FOR LICENSURE
- 1603.1 Each application for a public hall license shall be made on a form prescribed by the Director and filed at 941 North Capitol Street, N.E. Rm. 7313, Washington, D.C., with the Business and Professional Licensing Administration of the Department of Consumer and Regulatory Affairs.
- 1603.2 Each application shall contain the following information:
- (a) The name and address of the applicant;
 - (b) The trade name and address of the public hall;
 - (c) The name and address of the public hall owner's business;
 - (d) The form of ownership (sole proprietor, partnership, or corporation);
 - (e) If the owner is a partnership, the names and addresses of all partners; if the owner is a limited partnership, the names and addresses of all general partners;
 - (f) If the owner is a corporation, the names and addresses of all officers and directors, the date of incorporation, and the amount of capital stock;
 - (g) If the owner is a corporation or the owner does not reside in the District of Columbia, the corporation or non-resident owner shall provide the name, address, telephone number, and signature of the person who has agreed to be the owner's registered agent for service of process;
 - (h) If different from the name and address of the applicant, the name and address of the owner of the building in which the public hall is located; and
 - (i) Any other information required by the Director.
- 1603.3 The applicant shall also file as part of its license application the following:

- (a) Documentation that the applicant is in good standing with the Superintendent of Corporations of the District of Columbia if the applicant is a corporation or a limited partnership;
- (b) Documentation that the building or portion of the building that will be used as a public hall has a valid certificate of occupancy; and
- (c) Certification from the Office of Administrative Hearings, the Metropolitan Police Department, and the Department of Tax and Revenue that the applicant has no outstanding civil or criminal violations, or tax delinquencies.

1603.4 An application for the renewal of an existing license shall be filed sixty (60) days prior to the expiration date of the existing license.

1603.5 No application for a new or a renewal license shall be processed until the one thousand three hundred dollar (\$1,300) annual license fee, the thirty-five dollar (\$35) application fee, and the ten dollar (\$10) endorsement fee are paid.

1604 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

1604.1 A false statement on an application, or on any other document required to accompany an application, may be grounds upon which the Director or the Director's agent may deny an application or suspend or revoke a license.

1604.2 The Director may deny an application or suspend or revoke a license when such action is necessary to protect public decency, public safety, public health, or the peace and quiet of the community, and may suspend or revoke a license for violations of law relating to the operation of a public hall either committed by the licensee or permitted to occur through the licensee's failure to properly to superintend.

1604.3 The Director and other agencies of the District government shall have standing to present evidence in support of or in opposition to the granting, suspension, or revocation of a license for the reasons set forth in § § 1604.1 and 1604.2.

1604.4 A hearing on the granting, suspension, and revocation of a license shall be conducted in accordance with D.C. Official Code §§ 2-509, and §1609 of this chapter, and the provisions of 1 DCMR Chapter 11, as appropriate.

1605 PUBLIC NOTICE BY THE DIRECTOR

1605.1 At least thirty (30) days before granting an application for a new or a renewal license, the Director shall give written notice by mail to the affected Advisory Neighborhood Commission and shall cause the notice to be published in the D.C. Register.

- 1605.2 The notice shall contain the following:
- (a) The name of the applicant and the trade name of the public hall;
 - (b) The address or other designation of the location of the building for which the license is sought;
 - (c) A statement that any resident or owner of residential property, within six hundred (600) feet of the boundary lines of the lot upon which is situated the building for which the license is sought, who objects to the granting of the application is entitled to be heard at a hearing;
 - (d) A description of the boundaries of the area within six hundred feet (600) feet of the building for which the license is sought;
 - (e) A concise description of the proposed hours of operation of the public hall and the kind of events that will occur;
 - (f) The date by which a person or organization must file an objection with the Department; and
 - (g) The date, time, and location of the hearing.
- 1606 PUBLIC NOTICE BY THE APPLICANT
- 1606.1 For a period of not less than twenty-eight (28) days prior to the hearing date, the applicant shall post two (2) notices supplied by the Director in conspicuous places on the building for which the license is sought.
- 1606.2 The notices shall contain the information set forth in § 1605.2.
- 1606.3 The notices shall be securely posted on the front of the building. The bottom of the notice may not be less than three (3) feet above the abutting pedestrian level, and the top of the notice may not be more than six (6) feet above the abutting pedestrian level.
- 1606.4 The notices may be attached to the inside of a window, provided that the notices meet the positioning requirements of § 1606.3.
- 1606.5 Notices posted on the exterior of a building shall be covered with clear plastic to protect them from the weather.
- 1606.6 The Director shall cause the notices to be inspected at least once before the date of the hearing to ensure that the notices are continuously and conspicuously displayed to the public.
- 1606.7 On or before the date of the hearing, the applicant shall file an affidavit with the Director certifying that the requirements of § 1606 have been satisfied.
- 1606.8 If the notices have been removed or are posted in a manner making them not easily visible from the street, the Director may extend the notice period or require that the notice period begin anew.

1607 DELINEATION OF BOUNDARIES

- 1607.1 In establishing a six hundred foot boundary, the Director shall measure the specified distance in an arc from each corner of the lot on which the public hall is located.
- 1607.2 If the boundary line intersects any portion of a lot, the entire lot shall be deemed to be within the area that is within six hundred (600) feet of the lot on which the public hall is located.

1608 FILING AN OBJECTION

- 1608.1 Any resident or owner of property within six hundred (600) feet of the boundary lines of the lot on which the public hall is situated may file an objection to the issuance of a new or a renewal license.
- 1608.2 An objection shall be in writing and must be received by the Director at 941 North Capitol Street, N.E., Rm. 9500, Washington, D.C. 20001, at least five days prior to the date of the hearing.
- 1608.3 An objection may be filed in person between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, except on legal holidays.
- 1608.4 When a party retains counsel, the attorney so retained shall include his or her name, address, phone number, and D.C. Bar number on the first document filed by that party after retaining counsel. If the party retains counsel after filing a document and the party does not file additional documents, the attorney retained shall promptly file with the Director a notice of appearance containing the attorney's name, address, phone number, and D.C. Bar number.
- 1608.5 When a party is proceeding without representation by counsel, the party shall include his or her name, address, and phone number on any document filed with the Director.

1609 HEARINGS

- 1609.1 If no objection to an application for a license has been timely filed and the applicant has complied with all the requirements for licensure, the Director shall issue the license.
- 1609.2 If a timely objection has been filed, a hearing shall be conducted by a hearing official duly appointed by the Director, and pursuant to 1 DCMR §§ 1107, 1109, 1111 through 1113, 1120, and 1121, except where inconsistent with this chapter.
- 1609.3 If the hearing official determines that the notices required to be posted by the applicant have not remained visible to the public for a period of at least twenty-eight (28) days and the public or the government has been prejudiced thereby, the hearing official may reschedule the hearing to a date up to thirty (30) days subsequent.
- 1609.4 Whenever a hearing is rescheduled, additional information or commentary may be received by the hearing official for up to five (5) days before the rescheduled date of

hearing.

- 1609.5 The parties to the hearing shall be the applicant and any person, group, Advisory Neighborhood Commission or District government agency that has filed a timely written objection under these rules.
- 1609.6 The applicant shall have the burden of demonstrating that the public hall is appropriate for licensure. Specifically, the applicant shall have the burden of establishing that the granting of the application is not likely to have an adverse effect on the peace, order, and quiet of the neighborhood in which the public hall is situated, and is not likely to have an adverse effect on the residential parking needs, and the vehicular and pedestrian safety of the of the neighborhood.
- 1609.7 In the event there is more than one (1) party objecting to the application, the hearing official may require the parties to confer among themselves and designate one (1) representative to act for the rest.
- 1609.8 The hearing official shall issue a decision on the application within thirty (30) days of the hearing.
- 1610 APPEALS
- 1610.1 An appeal from the final decision of the hearing official may be filed with the District of Columbia Office of Administrative Hearings in accordance with its rules of procedure.
- 1610.2 Filing a timely notice of appeal shall not operate to stay the decision of the hearing official.
- 1611 EXCEPTIONS
- 1611.1 A licensed applicant who holds a valid class C or D license issued pursuant to the District of Columbia Alcoholic Beverage Control Act, D.C. Official Code § 25-101 et seq., shall be exempt from the notice and hearing provisions of these rules.
- 1699 DEFINITIONS

When used in this chapter the following words or phrases shall have the meanings ascribed below:

Administrative Law Judge - An Administrative Law Judge authorized to hear cases in the District of Columbia Office of Administrative Hearings.

Person - Any individual, firm, corporation, partnership, cooperative association, or any other organization, legal entity, or group of individuals however organized.

Public Hall - any building in which a skating rink, fair, carnival, ball, dance, exhibition, lecture, or entertainment of any description, including theatrical or

dramatic performances of any kind, is conducted for profit or gain except movie theatres.

Any person desiring to comment on the subject matter of this proposed rulemaking shall submit comments in writing to J. Sinclair Long, Assistant General Counsel, Office of the General Counsel, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, N.E., Suite 9400, Washington, D.C. 20002, not later than 30 days after the date of publication of this notice in the D.C. Register. A fee of one dollar shall be charged for each copy of the proposed rulemaking.

THE OFFICE OF CONTRACTING AND PROCUREMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by section 204 of the District of Columbia Procurement Practices Act of 1985 ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.04 (2001)), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following emergency rules and of the intent to adopt final rulemaking to amend Chapter 13 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The proposed rules are intended to amend section 1301.1 of Chapter 13 concerning notices of contract awards so as to be consistent with the small purchase limitations, thereby only requiring publication of notices of awards of contracts above the small purchase limit of \$500,000 for the Metropolitan Police Department and the Office of the Chief Technology Officer, and above \$100,000 for all other agencies.

Action was taken on August 2, 2005 to adopt the following rules on an emergency basis effective on that date. Without these emergency rules, the Office of Contracting and Procurement (OCP) will be required to publish notices of all awards of contracts for \$25,000 and above on the OCP Internet site established in accordance with section 303(c-1) of the PPA (D. C. Official Code § 2-303.03(c-1)(2001)), even though the small purchase rules were amended effective upon approval of the Council of the District of Columbia on July 19, 2003, and published in a Notice of Final Rulemaking in the *D. C. Register* on October 3, 2003, at 50 DCR 8179. This proposed rule conforms the publication requirement for contract awards to the changes in the small purchase limitations.

Adoption of these emergency rules to amend Chapter 13 is thus necessary for the immediate preservation of the public health, safety and welfare, by not requiring OCP to publish notices of awards of every procurement \$25,000 and above for supplies and services. These emergency rules will remain in effect up to one hundred twenty (120) days from date of adoption, unless earlier superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The Chief Procurement Officer also gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The Chief Procurement Officer will submit the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(a) of the PPA (D.C. Official Code §2-302.05(a) (2001)), and will not take final rulemaking action until completion of the 60-day review period or Council approval of the rules by resolution before the end of the review period.

CHAPTER 13

PUBLICIZING CONTRACT ACTIONS

Section 1301 is amended to read as follows:

1301 NOTICE OF CONTRACT AWARDS

- 1301.1 Notice of awards of contracts exceeding five hundred thousand dollars (\$500,000) for the Metropolitan Police Department and the Office of the Chief Technology Officer, and exceeding one hundred thousand dollars (\$100,000) for all other agencies, shall be published on the Internet site maintained in accordance with § 1300.7, within a reasonable period of time after the contracts are awarded.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, no later than thirty (30) days after the date of publication of this notice in the *D. C. Register*. Hand-delivered comments should be delivered, and mailed comments should be postmarked, no later than thirty (30) days after publication of this notice in the *D. C. Register*. Comments should be delivered or mailed to Herbert R. Tillery, Interim Chief Procurement Officer, Office of Contracting and Procurement, 441 Fourth Street, N.E., Suite 700 South, Washington, D.C. 20001. Copies of the proposed rules may be obtained from the above address.